

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	2:02-cr-416-GEB
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
DAWANE MALLETT,)	
)	
Defendant.)	
_____)	

The sentence of Defendant Dawane Mallett was "remanded for further proceedings in light of *United States v. Booker*, 125 S. Ct. 738 (2005), and *United States v. Ameline*, [409 F.3d 1073 (9th Cir. 2005) (en banc)]."

The initial question on remand is whether the sentence imposed on Defendant "would have been materially different had the district court known that the Guidelines were advisory. . . ." *Ameline*, 409 F.3d at 1084. "[T]he 'views of counsel, at least in writing,' should be obtained" before this question is answered. *Id.* at 1085 (quoting *United States v. Crosby*, 397 F.3d 103, 120 (2d Cir. 2005)).

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1 Accordingly, each party's counsel is requested to file views
2 on this question no later than November 18, 2005.

3 IT IS SO ORDERED.

4 DATED: October 27, 2005

5 /s/ Garland E. Burrell, Jr.
6 GARLAND E. BURRELL, JR.
7 United States District Judge
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